

Bill No. SB 1850

Barcode 801132 Comm: RCS 03/27/2007 02:34 PM

597-2180-07

Proposed Committee Substitute by the Committee on Banking and Insurance

1 A bill to be entitled

2 An act relating to a review under the Open

3 Government Sunset Review Act; amending s.

4 624.319, F.S.; revising an exemption from the

5 public-records law which is provided for work

6 papers held by the Department of Financial

7 Services or the Office of Insurance Regulation

8 of the Financial Services Commission; defining

9 the term "work papers"; saving the exemption

10 from repeal under the Open Government Sunset

11 Review Act; deleting provisions providing for

12 repeal of the exemption; providing an effective

13 date.

14

15 Be It Enacted by the Legislature of the State of Florida:

16

17 Section 1. Subsection (3) of section 624.319, Florida

18 Statutes, is amended to read:

19 624.319 Examination and investigation reports.--

20 (3)(a)1. Examination reports, until filed, are

21 confidential and exempt from ~~the provisions of s. 119.07(1).~~

22 2. Investigation reports are confidential and exempt

23 from ~~the provisions of s. 119.07(1)~~ until the investigation is

24 completed or ceases to be active.

25 3. For purposes of this subsection, an investigation

26 is active while it is being conducted by the department or

27 office with a reasonable, good faith belief that it could lead

28 to the filing of administrative, civil, or criminal

29 proceedings. An investigation does not cease to be active if

30 the department or office is proceeding with reasonable

31 dispatch and has a good faith belief that action could be

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1 initiated by the department or office or other administrative
2 or law enforcement agency. After an investigation is completed
3 or ceases to be active, portions of the investigation report
4 relating to the investigation remain confidential and exempt
5 from ~~the provisions of~~ s. 119.07(1) if disclosure would:

6 ~~a.1.~~ Jeopardize the integrity of another active
7 investigation;

8 ~~b.2.~~ Impair the safety and financial soundness of the
9 licensee or affiliated party;

10 ~~c.3.~~ Reveal personal financial information;

11 ~~d.4.~~ Reveal the identity of a confidential source;

12 ~~e.5.~~ Defame or cause unwarranted damage to the good
13 name or reputation of an individual or jeopardize the safety
14 of an individual; or

15 ~~f.6.~~ Reveal investigative techniques or procedures.

16 (b)1. As used in this paragraph, the term "work
17 papers" means the records of the procedures followed, tests
18 performed, information obtained, and conclusions reached in an
19 examination or investigation performed under ss. 624.316,
20 624.3161, 624.317, and 624.318. Work papers include planning
21 documentation, work programs, analyses, memoranda, letters of
22 confirmation and representation, abstracts of company
23 documents, schedules or commentaries prepared or obtained in
24 the course of such examination or investigation, and
25 information based on civil and criminal complaints and
26 investigations.

27 2. Work papers ~~workpapers and other information held~~
28 ~~by the department or office, and workpapers and other~~
29 ~~information received from another governmental entity or the~~
30 ~~National Association of Insurance Commissioners, for the~~
31 ~~department's or office's use in the performance of its~~

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~~examination or investigation duties pursuant to this section and ss. 624.316, 624.3161, 624.317, and 624.318 are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to work papers ~~workpapers and other information~~ held by the department or office before, on, or after the effective date of this exemption.~~

3. Such confidential and exempt work papers ~~information~~ may be disclosed to:

a. Another governmental entity, if disclosure is necessary for the receiving entity to perform its duties and responsibilities; ~~or, and may be disclosed to~~

b. The National Association of Insurance Commissioners. ~~The receiving governmental entity or the association must maintain the confidential and exempt status of the information. The information made confidential and exempt by this paragraph may be used in a criminal, civil, or administrative proceeding so long as the confidential and exempt status of such information is maintained. This paragraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2007, unless reviewed and saved from repeal through reenactment by the Legislature.~~

4. After an examination report is filed or an investigation is completed or ceases to be active, portions of the work papers may remain confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if disclosure would:

a. Jeopardize the integrity of another active examination;

b. Impair the safety and financial soundness of the

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licensee or affiliated party;

c. Reveal personal financial, medical, or health information;

d. Reveal the identity of a confidential source;

e. Defame or cause unwarranted damage to the good name or reputation of an individual or jeopardize the safety of an individual;

f. Reveal examination techniques or procedures; or

g. Violate an agreement between governmental entities or with the National Association of Insurance Commissioners with respect to the sharing of confidential information.

(c) Lists of insurers or regulated companies are confidential and exempt from ~~the provisions of~~ s. 119.07(1) if:

1. The financial solvency, condition, or soundness of such insurers or regulated companies is being monitored by the office;

2. The list is prepared to internally coordinate regulation by the office of the financial solvency, condition, or soundness of the insurers or regulated companies; and

3. The office determines that public inspection of such list could impair the financial solvency, condition, or soundness of such insurers or regulated companies.

Section 2. This act shall take effect October 1, 2007.